UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

FILED

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U.S. DISTRICT COURT
EASTERN DIST. TENN.

BY______ DEPT. CLERK

STEVEN WHITE, FRANK BAKER, AND IVAN PHILLIPS,

Plaintiffs,

v.

MPW INDUSTRIAL SERVICES, INC.,

Defendant.

Civil Action No. _______

1:05 CV 162

JUDGE CURTIS L. COLLIER / Lee

COMPLAINT

Come the Plaintiffs, Steven White ("**White**"), Frank Baker ("**Baker**") and Ivan Phillips ("**Phillips**"), individually and upon behalf of other persons similarly situated, by and through their attorneys, and for their Complaint against the Defendant, MPW Industrial Services, Inc. ("**MPW**"), would show unto the Court as follows:

1. Plaintiffs White, Baker, and Phillips are each citizens of the State of Tennessee, and each resides in Hamilton County.

2. Defendant MPW is a corporation with its headquarters located in the State of Ohio. It is engaged in the business of providing industrial cleaning, facility management, container management, and water purifications at various locations in the United States and Canada. It is engaged in business in Hamilton County, Tennessee, where the events giving rise to this lawsuit took place.

3. This is an action to redress systemic violations of the Fair Labor Standards Act, as amended. Plaintiffs also seek relief for systemic violations of federal and state laws prohibiting discrimination in employment on account of race. Jurisdiction over this lawsuit

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exists without regard to the citizenship of the parties or the amount in controversy pursuant to 29 U.S.C. § 216(b), 28 U.S.C. § 1331, 28 U.S.C. § 1337, 42 U.S.C. § 1981, 28 U.S.C. § 1343, and 28 U.S.C. § 1367.

4. The Defendant maintains two (2) separate, but closely related, types of operations in Hamilton County. These are an Ultrahigh pressure cleaning operation and an industrial cleaning service. The Defendant has essentially segregated these two operating divisions by race. The Ultrahigh pressure cleaning operation consists of primarily white employees, while its industrial cleaning service is staffed by a predominately black workforce. As will be shown, wages and promotional opportunities are substantially superior among the occupations reserved for white employees. However, the work performed by all of the employees is essentially the same.

5. The Defendant also maintains a practice of employing very few black employees in management positions throughout the Company. Training, promotions, and wage increases are significantly better for employees in the division reserved for white employees. A reason for this is the pattern, practice, and policy of Defendant to discriminate on account of race in its employment actions.

6. Plaintiffs routinely work in excess of 40 hours per week, but they are not compensated for all such hours worked. The Defendant has a practice of not compensating employees for all time worked. For example, the Defendant requires employees to report to work at the Defendant's shop. The employees gather necessary equipment to perform a job and are then transported to that job. However, the Defendant has refused to compensate employees for that time in which they were engaged by the Defendant. Likewise, when the Plaintiffs are required to move from one work location to another, they are not compensated

for that time worked. These practices violate the minimum wage and overtime provisions of the Fair Labor Standards Act, as amended.

7. Plaintiffs are not always paid promised compensation when it is due. MPW regularly pays Plaintiffs less than the full amount owed and seeks to make up the shortage in later paychecks. Plaintiffs suffer insufficient check fees and unpaid bills as a result. Upon information and belief, MPW does not do this to the employees in the Ultrahigh pressure unit. A reason for this is the pattern, practice, and policy of Defendant to discriminate on account of race in its employment actions.

8. Plaintiffs have filed charges of race discrimination with the Equal Employment Opportunity Commission. Thus far, no right-to-sue letters have been issued. Plaintiffs intend to amend their Complaint as soon as practical following the receipt of right-to-sue letters.

9. MPW's conduct violates the anti-discrimination provisions of the Tennessee Human Rights Commission Act, Tenn. Code Ann. §§ 4-21-301, *et seq*. and the provisions of 42 U.S.C. § 1981.

10. Upon information and belief, MPW's conduct violates its Affirmative Action Plan, if any. The Defendant has also performed work on certain projects that are covered by the Davis-Bacon Act requiring the payment of a prevailing wage to all employees engaged to work on that project. The Defendant has not always paid that prevailing wage to black employees.

Plaintiffs accordingly pray for the following relief:

(a) An Order certifying this case as a Class Action under Rule 23, Federal Rules of Civil Procedure, allowing the case to proceed upon behalf of a class of appropriately defined Plaintiffs with respect to the claims for race-based discrimination;

(b) An Order pursuant to 29 U.S.C. § 216(b) allowing the Plaintiffs to proceed on behalf of all similarly situated persons, including present and former employees of the Defendant, for purposes of the relief sought under the Fair Labor Standards Act;

(c) Appropriate legal and equitable relief pursuant to 42 U.S.C. § 1981, Tenn. Code Ann. § 4-21-301, *et seq*. and, following amendment of the Complaint, Title VII of the Civil Rights Act;

(d) Appropriate relief under the Davis-Bacon Act;

(e) Attorneys fees and litigation expenses under all applicable statutes; and

(f) All such further relief to which the Plaintiffs may be found entitled.

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